

**KUTAK ROCK LLP**

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*Counsel for Keith L. Phillips, Chapter 7 Trustee*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

IN RE: JOHN HOUSTON MCCLUNG, JR.,

Case No. 12-33362-DOT

Debtor.

Chapter 7

**MOTION TO EXAMINE JOHN HOUSTON MCCLUNG, JR.  
AND DENISE L. JOHANSEN PURSUANT TO  
RULE 2004 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

Keith L. Phillips (the “Trustee”), Trustee for the Bankruptcy Estate of John Houston McClung, Jr. (the “Debtor”), by counsel, moves to examine the John Houston McClung, Jr. (“Debtor”) and Denise L. Johansen (“Ms. Johansen”) and to compel the production of certain documents pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure and, in support thereof, states as follows:

**Jurisdiction and Venue**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

**Background**

3. The Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code on May 31, 2012.

4. The Trustee is the duly appointed Chapter 7 trustee for the bankruptcy estate.

5. Ms. Johansen is the fiancé of the Debtor.

6. The Debtor and Ms. Johansen maintain separate and joint bank accounts with Wells Fargo as follows: account number ending in -1371 for the Debtor and Ms. Johansen; account number ending in -7519 for the Debtor and Ms. Johansen; and account number ending in -8683 for Ms. Johansen only.

7. Significant transfers occurred pre-petition between the Bank Accounts. While the Trustee has received information from the deponents, the Trustee needs answers under oath relating to issues such as (i) what were the sources of the income underlying these transfers; and (ii) what are the reasons for the transfers. The Trustee seeks to determine whether avoidance actions exist. These particular issues relate directly to the acts, conduct, or property of the Debtor and the liabilities and financial condition of the Debtor, and may affect the administration of Debtor's estate.

8. The Trustee also needs the Court to compel the production of documents regarding transfers between the bank accounts. The Trustee also requests the Court to order the production of the documentation identified on the attached Schedule A.

**WHEREFORE**, the Trustee requests the Court to authorize the requested examination, to compel the production of documentary evidence as requested herein, and to award any further relief the Court deems proper.

**KEITH L. PHILLIPS, TRUSTEE**

By: /s/ Ellen L. Valentine  
Counsel

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*Counsel for Keith L. Phillips, Trustee*

**CERTIFICATE OF SERVICE**

Pursuant to the Local Rules of this Court, I hereby certify under penalty of perjury that on June 12, 2013 a true and correct copy of the foregoing was served on all necessary parties via ECF or first-class mail, postage prepaid, as follows:

Deponent:

Denise L. Johansen  
637 Abbey Village Circle  
Midlothian, Virginia 23114

Debtor's Counsel:

Charles H. Krumbein, Esquire  
[charlesh@krumbein.com](mailto:charlesh@krumbein.com)

Debtor:

John Houston McClung, Jr.  
637 Abbey Village Circle  
Midlothian, Virginia 23114

By: /s/ Ellen L. Valentine  
Counsel

**SCHEDULE A**

1. Bank statements for May 2012 for the Wells Fargo account number ending in -1371.
2. Bank statements from May 2010 through May 2012 for an unidentified bank account ending in the numbers -5564.
3. Any and all documents regarding the origin and source of the \$20,000.00 in the Wells Fargo bank account ending in -8683 which was transferred on December 1, 2011 to the Wells Fargo bank account ending in -1371.
4. Federal income tax returns for the Debtor for 2011 and 2012, including all attachments, exhibits and supporting documentation.
5. Federal income tax returns for Ms. Johansen for 2011 and 2012, including all attachments, exhibits and supporting documentation.